United Nations S/2006/389

Security Council

Distr.: General
13 June 2006

Original: English

Report of the Secretary-General on children and armed conflict in the Democratic Republic of the Congo

Summary

This report has been prepared in accordance with the provisions of resolution 1612 (2005). It is presented to the Security Council and its Working Group on children and armed conflict as the first country report from the monitoring and reporting mechanism referred to in paragraph 3 of that resolution. The report, which covers the period from July 2005 to May 2006, provides information on compliance and progress in ending the recruitment and use of children and other grave violations being committed against children in situations affected by armed conflict in the Democratic Republic of the Congo. The report notes that while some progress has been made to redress the grave violations of children's rights referred to in resolution 1612 (2005), these continue to a large extent with impunity, including the recruitment and use of children in armed forces and groups, abduction, sexual violence, killing and maiming of children and attacks on schools. Areas where violations have been reported include Katanga, Ituri and North Kivu Provinces. Elements engaged in these violations include Mai-Mai groups, Rwandan elements with close links to the Forces démocratiques de libération du Rwanda (FDLR) but not under FDLR command, members of Congolese security forces including the police force and elements of the Congolese armed forces, and dissident or non-aligned groups that have refused to join the army integration process and disarmament, demobilization and reintegration including militia groups such as the coalition of the Mouvement révolutionnaire congolais (MRC).

The report contains a series of recommendations with a view to securing strengthened action for the protection of war-affected children in the Democratic Republic of the Congo.

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I. Introduction

1. Based on trends emerging over the reporting period, the present report reflects progress made since July 2005 to redress grave violations of children's rights as referred to in Security Council resolution 1612 (2005). Information used in this report is based on monitoring by MONUC child protection advisers and staff of the UNICEF child protection programme in conjunction with civil society actors. Full geographical coverage of the country for monitoring purposes is still incomplete owing to the size and inaccessibility of some areas of the Democratic Republic of the Congo.

II. Political, military and social developments in the Democratic Republic of the Congo

2. The transition period that began with the establishment of transitional national institutions in July 2003 is moving towards its conclusion. The first round of presidential and parliamentary elections is scheduled for 30 July 2006. As part of the process of transition, the integration of the various armed factions into the new national military, the Armed Forces of the Democratic Republic of the Congo (FARDC), was initiated early in 2005. This process is referred to as *brassage*, and is intended to result in the creation of a unified, non-partisan, disciplined and efficient Congolese army that will address internal security problems, including the presence of foreign armed groups. The *brassage* process is complemented by the disarmament, demobilization and reintegration programme which aims to demobilize those unfit or unable to join the new army and support their return to civilian life. For children under 18, a special programme has been put in place (see section IV).

3. Although *brassage* of troops has begun, the full-scale operationalization of this plan will take some time to complete. Since its inception, the process has suffered significant setbacks, including poor coordination, lack of sufficient materials and transport facilities, delays in redeployment of integrated FARDC brigades, and serious backlogs in the payment of salaries to the armed forces. As a result, the integration of the army is incomplete and has yet to contribute significantly to the security of the civilian population, particularly in the central and eastern parts of the country. The disarmament and dismantling of non-aligned armed groups remains a high priority for the armed forces and their international partners, as well as the establishment of a reliable system for the payment and sustenance of soldiers, a dependable system of control of weapons in circulation within the armed forces and a successful strategy for the reintegration of demobilized ex-combatants.

4. In areas like the Ituri district, the Kivus and Katanga, some of the most notorious groups known for abuses against civilian population still refuse to join the army integration process and the disarmament, demobilization and reintegration programme. These dissident and non-aligned groups constitute a serious threat to stability and may obstruct the electoral process. Large parts of Katanga, especially the northern and central areas, are still under the control of various Mai-Mai groups who have remained outside the official disarmament, demobilization and reintegration programme. On 12 May 2006, however, an important breakthrough was made when Kyungu Mutanga, a Mai-Mai leader also known as Gédéon,

operating in Katanga Province, surrendered in Mitwaba. He was accompanied by more than 150 combatants, 76 of whom were children. It is estimated that 2,000 to 4,000 of his followers remain at large, a significant number of them thought to be children.

5. In the past months, a number of joint MONUC/FARDC and unilateral FARDC military operations were conducted against foreign and non-aligned armed groups in Ituri, North and South Kivu, and in northern and central Katanga. In the aftermath of those operations, a number of human rights violations were reported. Recent unilateral FARDC military operations (63rd non-integrated Brigade) against Mai-Mai leader Gédéon, inadvertently resulted in the displacement of tens of thousands of civilians, particularly in central Katanga. Approximately 170,000 people were displaced from their villages late in 2005 and sought refuge around the towns of Mitwaba, Dubié, Manona and Malemba Nkulu.

6. In other parts of the country, high levels of population displacement continue. As an indication of the fragile humanitarian situation, the United Nations and partners aided 120,000 new internally displaced persons per month with their rapid response mechanism — co-managed by UNICEF and the Office for the Coordination of Humanitarian Affairs — in the first quarter of 2006, a monthly increase of 250 per cent over the 2005 average. The Office for the Coordination of Humanitarian Affairs now estimates the number of internally displaced persons in the Democratic Republic of the Congo at over 1.6 million. The humanitarian community has produced a consolidated action plan for 2006 to address some of the more urgent needs. The amount that has been pledged for the 2006 plan is currently about a third of the amount requested.

7. Of late, joint efforts at the national and international levels have resulted in great strides in the fight against impunity for those who recruit and use children. In March 2006, Jean Pierre Biyoyo from the 10th Military Region (ex-commander of the armed group Mudundu 40) was condemned to five years' imprisonment for arbitrary arrest and illegal detention of children (de facto child recruitment), committed in South Kivu in April 2004. The same month, Thomas Lubanga Dyilo, a former leader of the Union des patriotes congolais active in Ituri Province, was handed over to the International Criminal Court in The Hague, accused of the war crime of recruitment and use of children under the age of 15. The new Constitution, promulgated in February 2006, will contribute to limiting the use of children in armed groups as the age of 18 was confirmed as the minimum age for recruitment into the armed forces.

8. On the other hand, there has been little progress in addressing the dire social situation of Congolese children over the reporting period. Underfunding of social sectors and irregular payment of salaries for government staff continue to inhibit the ability of families to pay for basic social services such as health and education. As a consequence, around half of Congolese children are excluded from health and education services. Currently, around 3.5 million primary-aged children are out of school; and there are at least 6 million unschooled adolescents.

III. Grave violations of children's rights

9. During the reporting period, members of Congolese security forces — notably the armed forces and police — have emerged as the main perpetrators of the grave violations of children's rights that are documented. This reflects the state of flux in which the armed forces of the Democratic Republic of the Congo find themselves — seeking to integrate elements of former armed groups, some with very low capacity and training. These violations have occurred despite the efforts of the international community to support the training of those forces within the framework of security sector reform.

10. Serious violations committed against children and the civilian population by dissidents and non-aligned armed groups, the armed forces of the Democratic Republic of the Congo and members of the national police are generally not investigated or punished by the national authorities. However, since early 2006, progress has been noticed in some regions, with the demonstration of real commitment from the judicial authorities, notably the *Auditeurs militaires*, to the fight against impunity. This has led to several important advances such as the prosecution and conviction of former Mudundu 40 commander Jean Pierre Biyoyo and convictions of alleged perpetrators of other grave violations of children's rights. However, access to the justice mechanism remains difficult because fees are demanded at every stage of legal proceedings. This and the general lack of trust in the judicial system cause victims to refrain from lodging an official complaint; they turn instead to settlements out of court, especially in rape cases.

Abductions

11. During the past year at least 29 cases of abduction were reported, all in Ituri and the Kivu Provinces. They were committed mainly by FARDC battalions on the move, forcing children to carry military goods, or by armed Rwandan elements during the retaliation attacks on villages in South Kivu carried out in the second half of 2005. It is highly plausible that many of the girls who are being used by armed forces and groups have been abducted, as reported for instance in South Kivu when five female minors were allegedly abducted by Captain Indi Mulenga of FARDC in March 2006 while he was moving with his troops. In most instances the alleged perpetrators were not located and thus remained unpunished.

12. In Katende, 30 km from Kalemie, Katanga Province, two girls were allegedly abducted by FARDC members and raped while taken hostage from 22 to 24 February 2006. So far, the Military Auditor has arrested one of the perpetrators; investigations are blocked because of lack of transport to investigate at the crime site.

Killing and maiming of children

13. In zones where armed conflict is still active, children have not been spared from violence and killing.

14. About 60 children have been reported killed since July 2005, but limited access to various parts of the country makes it difficult to obtain accurate numbers. Of the registered killings, 29 were attributed to Rwandan armed groups[1] during mass attacks on civilians perpetrated during the second half of 2005, as detailed below:

(a) During the night of 9 July 2005, a group reportedly of around 30 well-armed Rwandan elements attacked the village of Kabingu, approximately 60 km from Bukavu in the Province of South Kivu. On the basis of testimonies gathered, a multidisciplinary team from MONUC was able to confirm that over 50 civilians were killed in the attack. More then 40 victims, mostly women and children, were either burned alive in their huts or killed by machete blows while trying to escape. Fifteen others were injured, 6 of whom later succumbed to their injuries at local health centres, and 11 women were subjected to rape during the course of the attack. The assailants also reportedly abducted several villagers, including four young girls. Three of them were subsequently stabbed to death and their bodies disposed of near the village. Of the 41 estimated victims, the MONUC Child Protection Section compiled a list of 23 children victims.[2]

(b) There was another massacre in the village of Buba, Kanyola *groupement*, 55 km south-west of Bukavu, during the night of 9 October 2005. The killings were reportedly perpetrated by armed Rwandan elements, referred to by witnesses as Rastas led by Colonel Kyombe. According to the information gathered by a multidisciplinary MONUC investigation team, six children between 17 months and 16 years old were killed and another five children injured.

15. Ongoing abuses by members of the armed forces of the Democratic Republic of the Congo against the civilian population have also resulted in the killings of children. Reported incidents include the following:

(a) On 16 September 2005 a group of FARDC soldiers from the 123rd Battalion (ex-ANC)[3] passing through Nyamilima on their way to the Rumangabo *brassage* centre opened fire on a crowd of civilians celebrating their departure and throwing rocks at the passing trucks. Two minors, aged 10 and 15, and an 18-year-old boy were shot in the head and killed, while three other minors, aged 8, 9 and 17 years, were injured.

(b) Recent clashes between FARDC and FDLR that occurred in Nyamilima, Ruthshuru territory, North Kivu, resulted in the killing of eight civilians, three of them confirmed to be children (2 boys and 1 girl). All children died as a result of gunshot fired at close range by military of the 23rd FARDC Battalion as they stormed into huts and opened fire.

16. As elections approach, children are at risk of being utilized for political purposes and thus exposed to related violence.

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[1] These elements are often referred to as Rastas, groups of Rwandan combatants with close links to FDLR but not under FDLR command. However, a MONUC team which investigated one of these mass attacks by Rwandan elements was unable to establish clearly if that particular armed group was in any way linked to either FDLR or a Rasta group.

[2] The Secretary-General sent the MONUC investigation report to the Security Council by a letter dated 17 January 2006 (S/2006/28).

[3] National Congolese Army, the military branch of RCD-G (Congolese Rally for Democracy-Goma).

17. Two boys, aged 15 and 16, were killed during a march against the Société nationale d'électricité, organized on 15 May 2006 by the political party the Front démocratique pour le progrès in Kipushi (30 km from Lubumbashi). The boys were reportedly shot by members of the national police, who fired into the crowd indiscriminately. According to witnesses, participants in the march entered local schools to force children to join the demonstration. A woman was also killed during the same event. Six police members including the Commander of the *Groupe mobile d'intervention* were arrested and brought in to the Military Auditor of the garrison. So far, only one family of the victims has filed a complaint.

Recruitment and use of children in armed forces and groups

18. There appears to have been a significant reduction in the recruitment and use of children over the past 12 months. This is due to a combination of factors including the implementation of the disarmament, demobilization and reintegration programme for children (see section IV); the army integration process; a constant decrease in the number of active fighting zones; persistent lobbying by child protection networks against recruitment of children; and progress made by the judicial authorities in the fight against impunity. Despite this overall trend, in Ituri and North Kivu, cases of recruitment and re-recruitment by uncontrolled armed groups have been documented in the past months. Of serious concern are reports about children still present in some FARDC units, including some integrated FARDC brigades. More than 26 cases of recruitment and other violations by FARDC members were brought to the attention of the FARDC Chief of Staff who is following up on the allegations (see Section V).

19. During the month of March 2006, 22 children were identified among members of the 5th Integrated FARDC Brigade in Kananga (Kasai Occidental). In addition, two girls were identified in the 3rd FARDC Brigade integrated in Kamina, Katanga Province. The FARDC Commander in Kalonge (South Kivu), Captain Indi Mulenga, was also reported to have eight children among his ranks and is suspected of the abduction of five girls.

20. In North Kivu, recruitment and use of children by non-*brassaged* FARDC brigades is still going on. Various cases of re-recruitment of children by members of the 83rd (ex-ANC) Brigade were registered in the past months. In April 2006, a joint UNICEF-MONUC mission to Walikale established the presence of about 20 children in the 84th Brigade, commanded by Colonel Akilimali, and about 150 children in the 85th Brigade, commanded by Colonel Samy.

21. Dissident groups and non-aligned factions have continued to recruit children. In North Kivu children have been forcibly recruited to transport goods by armed groups on the move. In February 2006, there were allegations of recruitment of about 20 children by "General" Laurent Nkunda[4] in Masisi. Those new recruits were apparently sent out to recruit other children, sometimes at gunpoint. It is estimated that, altogether, about 70 children were recruited into Nkunda's ranks in the Masisi and Rutshuru territories over the reporting period.

[4] Dissident General Laurent Nkunda is listed in annex I to the Secretary-General's report on children affected by armed conflict (S/2005/72) for recruitment and use of children, rape and other grave sexual violence against children and attacks on schools and hospitals; he formerly belonged to ANC and is currently opposing the *brassage* and election processes.

22. In South Kivu, FDLR reportedly continues recruitment and other abuses against children. In southern Katanga the recently surrendered Mai-Mai leader, Gédéon, is well known for the presence of large numbers of children among his ranks. Reported cases include the following:

(a) On 5 April 2006, MONUC child protection staff interviewed a 15-year-old Rwandan who related that he was forcibly recruited by FDLR in Mubaraka village in Masisi territory, North Kivu, in February 2006, together with about 20 other children. After three weeks of captivity and having been forced to walk for seven days to the village of Rusamambo, the children were forced to walk all the way back to their village of Mubaraka with the aim of forcibly recruiting more children. The boy stated that he had been given a weapon, and that he and others recruited another 20 children, 5 of whom managed to escape. The boy estimated that there were altogether 70 children among the FDLR cadres at Rusamambo.

(b) Another six children were allegedly re-recruited in Masisi territory in February 2006 by non-*brassaged* elements of the FARDC brigade commanded by Major Rugayi.

23. In Ituri there have been constant allegations of recruitment by militia groups, especially of the coalition of the Mouvement révolutionnaire congolais (composed of former elements of the Front des nationalistes et intégrationnistes, forces de résistance patriotiques en Ituri and UPC armed groups).

24. The recent success in the fight against impunity of recruitment of children unfortunately seems to have an adverse effect on the ability to identify children still present among various groups joining the demobilization process. There are messages circulating in South Kivu and Katanga that children used as combatants are left behind by commanders joining the *brassage* process because they fear accusations of recruitment of children.

25. The identification and separation of girls remains a challenge in all regions. Many of the girls who were recruited by force (by way of abduction) or voluntarily have now become "wives" of combatants and are likely to be registered as such in the disarmament, demobilization and reintegration programme. Many of the girls associated with armed groups are not reached by the programme, however, as fear of discrimination and ostracism by family and communities often makes it difficult for those girls to come forward and seek support from the disarmament, demobilization and reintegration programme.

26. From January 2004 to May 2006, more than 18,000 children have been released from forces and armed groups in the Democratic Republic of the Congo. Because of limited integration support and programmes, however, children are still vulnerable to new threats and harassments, including re-recruitment. The MONUC Child Protection Section and UNICEF continue to receive reports of abuses against children formerly associated with armed forces and groups perpetrated by elements from different armed groups and the Congolese armed forces.

27. The abuses identified consist of arbitrary arrests, illegal detention[5] and ill-treatment during deprivation of liberty by FARDC and threats of re-recruitment by armed groups or elements thereof which remain active. In addition, many children

[5] According to Congolese law, military courts have no jurisdiction over individuals under the age of 18.

suffer from harassment by both FARDC and other armed groups, such as destruction of official demobilization certificates and sometimes forced payment of a ransom.

Grave sexual violence

28. Sexual violence continues to be a serious and significant part of the violence suffered by children in the Democratic Republic of the Congo.

29. In the Kivus, many rape cases attributed to armed military groups of Rwandan origin have been registered by child protection network partners. A local health centre in Kibirizi, in the Rutshuru area of North Kivu Province, in January 2006 had registered 174 cases of rape, allegedly perpetrated by Interahamwe and FARDC soldiers since the beginning of 2005; 80 per cent of the cases involved girls.

30. In addition, the number of cases of rape of children by members of the security forces (FARDC and members of the national police) reported in the central and eastern parts of the country has become a major concern. A majority of the reported cases were committed by FARDC soldiers deployed or on the move in the Kivus, Ituri and northern Katanga. In Kananga and Mbuji-Mayi (Kasai Orientale Province) members of the national police were reported to be the main perpetrators. Only a small number of alleged perpetrators have been brought to justice and, if accused, they are often acquitted in the absence of confirmed proof.

31. During the night of 12 October 2005, a girl held in police custody in Kananga allegedly was raped multiple times by three members of the *Police d'intervention rapide*. On 3 February 2006 the *Tribunal de garnison* acquitted the three alleged perpetrators of rape because of lack of proof. Two of the three alleged perpetrators were however sentenced for the arbitrary arrest and illegal detention of the girl.

32. In the past months notable progress has been achieved in the fight against impunity of sexual violence.

33. In April 2006, seven FARDC soldiers were punished severely for crimes against humanity when the military tribunal of the garrison of Mbandaka handed down life terms for mass rapes in the village of Songo Mboyo in Equateur Province, committed in December 2003. The court applied the Rome Statue of the International Criminal Court, which qualifies rape as a crime against humanity. This was the very first sentence against the country's military personnel for crimes against humanity.

34. In May 2006, in separate instances, two members of FARDC were convicted and sentenced to 10 years in prison for rape (of a 5-year-old and a 13-year-old girl respectively) by the military court of Kalemie, northern Katanga. The fact that in both cases the Military Auditor was very persistent in pursuing the investigations in the face of resistance to addressing the issue of sexual violence by the FARDC military authorities contributed greatly to the outcome.

35. In other regions like South Kivu and Ituri, positive signs have been registered among the *Auditeurs militaires*, who have lately taken a number of actions to address accusations against members of FARDC and national police more seriously.

Attacks on schools and hospitals

36. There have been several cases of occupation or destruction of schools in the course of attacks on the civilian populations in Katanga, Ituri and North Kivu:

(a) In July 2005, in and around Dubie, Katanga, five primary schools were burned by armed elements of the group of Mai-Mai loyal to leader Gédéon.

(b) Since July 2005, at the elementary school of Mutabi in Dubie, Katanga, six classes and two offices have been occupied by soldiers from the 63rd FARDC Brigade, who forcibly occupied 50 per cent of the school space.

(c) On 14 March during the FARDC operation against rogue militia in the Kpwandroma area of Ituri, in the village of Aruda, about 20 to 25 houses, including the secondary school, were set on fire, allegedly by FARDC elements.

(d) On 30 March, seven trucks loaded with military of the 891st Battalion (commanded by Major Samy Hangi) and their dependents arrived in Mbau, Beni territory, occupied the court of the primary school of Mbau (with 1,388 pupils), used doors and desks as firewood and classes as toilets, and looted the school's stationery and learning materials. So far, no investigation has been initiated either by the military hierarchy or by the Military Auditor.

Denial of humanitarian access

37. The general picture is one of steadily improving humanitarian access, despite periodical setbacks in locations such as Ituri.

38. In April 2006, during the FARDC operation against Mai-Mai leader Gédéon, officers of the 6th Military Region under the command of General Tshimbumbu and of the 63rd Brigade commanded by Major Ekembe hampered humanitarian access to about 10,000 internally displaced persons in Mitwaba region, Katanga Province. In the same month, in Kasungaji (35 km from Mitwaba) in Katanga Province, soldiers of the 63rd Brigade looted a UNICEF convoy of bicycles transporting humanitarian kits for internally displaced persons.

IV. Dialogue and action plans to redress violations of children's rights

A. National action plan on disarmament, demobilization and reintegration for children

39. A national commission, the Commission nationale de désarmement, démobilisation et réinsertion, was set up in December 2003. It is funded mainly by a $200 million trust fund managed by the World Bank within the framework of the Multi-Country Demobilization and Reintegration Programme. The Commission is composed of five main internal departments, one of which is specifically dedicated to children's issues. Other international agencies have received funding through special projects under the Multi-Country Programme and participate under the coordination of the Commission. Before the Commission was operational, an interim operational framework for children's disarmament, demobilization and reintegration was developed under the leadership of UNICEF in collaboration with child protection agencies, and was approved in February 2004 by an inter-ministerial committee. The current operational framework for children's disarmament, demobilization and reintegration was adopted by the Commission in March 2004. The operational framework employs an inclusive definition of

beneficiaries as all children associated with armed forces and groups, rather than using the limited term "child soldier".

40. After a year of operation, the official operational framework for children is under revision. Although many aspects of the programme's implementation deserve serious rethinking or redesign, overall the implementation of the national disarmament, demobilization and reintegration programme for children has been quite positive. By allowing thousands of children to leave military and militia life and return to their families and communities, where their socio-economic reintegration can be supported, the programme has achieved a significant benchmark.

41. A joint operation plan has been developed to link the army integration process (military *brassage* exercise) with the disarmament, demobilization and reintegration process (civilian exercise). Within the plan, it was established that all orientation centres would have a dedicated space for children certified through the verification process. The children's spaces in the centres are managed by child protection agencies. The orientation centres were implemented in mid-2005. According to standards, children are not expected to stay more than 48 hours in the centres before being handed over to transit care facilities managed by child protection agencies.

42. In March 2005, UNICEF and MONUC met with the FARDC Army Chief of Staff, General Kisempia, to raise issues related to the recruitment and use of children within the Congolese armed forces. After the meeting, in May 2005, a cable was sent to all regional FARDC commanders stating in strong terms that any recruitment or use of children was prohibited and that perpetrators would be prosecuted. MONUC followed up by bringing specific cases of abuse to the attention of General Kisempia in February 2006. The documented cases consisted of re-recruitment, arbitrary arrests, ill-treatment, and deprivation of liberty, various forms of threats and forced payment of ransom. General Kisempia has demonstrated his willingness to take action as, on 18 May, FARDC Lieutenant Colonel Dieu Donné Kabali was sent by the FARDC hierarchy to Bunia (Ituri) to follow up on cases of violations reported by MONUC. Investigations have also been planned in other regions.

B. Dialogue with parties to conflict and other action plans

General coordination on protection issues

43. In line with recent moves to improve the effectiveness of the humanitarian system, a "protection cluster" of humanitarian agencies was established early in 2006. The main objective of the cluster is to prevent and reduce violence against civilians, as well as to ensure adequate and timely protection interventions to respond to abuse, exploitation and violence against civilians. The cluster meets at the national level under the leadership of UNHCR and MONUC, and is mirrored in the provinces most affected by conflict. Within this framework, coordinated action plans are developed to address the specific risks faced by children in the context of armed conflict and displacement. These include children separated from their families; children associated with armed forces and groups; and sexual violence.

Sexual violence

44. A joint initiative in the fight against sexual violence was launched in March 2004. Under the leadership of UNFPA, a large number of actors are involved in this initiative to coordinate response to sexual violence, including the Government (Ministries of Women and the Family, Social Welfare, Human Rights, Health, the Interior and Justice, as well as the Army), United Nations agencies (notably OHCHR, UNICEF, UNIFEM, UNDP, WFP and FAO), and national and international non-governmental organizations. The initiative aims to document and coordinate the actions of a large number of partners through an integrated approach, incorporating medical, legal and psychosocial support to victims, and to prevent sexual violence through a multi-agency and multi-sectoral approach which would include survivors and their communities.

V. Follow-up and programmatic responses to violations

General capacity-building of security and legal actors

45. Various organizations in the Democratic Republic of the Congo focus on training of police, military and the judiciary. UNICEF, MONUC, RCN Justice & Démocratie, Avocats sans Frontières, Save the Children UK and the International Committee of the Red Cross all play a valuable role in training security and judicial officials. Other actors, including the *Coopération française*, are involved in the training of judicial officers. Yet it is clear that the training may vary from a few days to a month and that more structural training is necessary to further develop long-term capacities. The donor community is placing increased focus on reform of the justice system; this reform needs to take into account provisions for juvenile justice and children who are victims of crime and abuse, and to address capacity constraints in the security and judiciary sectors more comprehensively.

Disarmament, demobilization and reintegration of children

46. According to official figures provided by the national Commission, as at 30 May 2006, 18,524 children have been released from armed forces and groups through official processes, of whom 2,880 (15.5 per cent of the total) have been girls. Thousands more have escaped from fighting forces on their own and are discreetly returning to civilian life. Girls are predominant in this latter category, as many of them would face extreme forms of social exclusion if identified as having been associated with armed groups and forces. Re-recruitments — both forced and voluntary — are still reported, mainly in the eastern Democratic Republic of the Congo; the total magnitude and trend of this phenomenon are not well known at this stage.

47. The main areas of response are the following:

- Advocacy for the release of children associated with armed forces and groups.
- Training of operational partners for transit care and reintegration activities.
- Sensitization on the issue of children associated with armed forces and groups (both at national level and at community level).
- Pre-identification and verification of children held within armed groups and forces.

- Transit care of the children.
- Family tracing and reunification.
- Social reintegration activities (development of community protection mechanisms, integration into formal and non-formal education programmes, individual follow-up of children etc.).
- Economic reintegration activities.

48. The national Commission and UNICEF currently work with approximately 9 international non-governmental organizations and 35 national non-governmental organizations to implement the activities listed above; the MONUC Child Protection Section continues with reinforced advocacy and monitoring.

49. One of the programme's early principles that turned out to be problematic was the directive given to the military groups to leave the children behind when moving to the orientation centres. At the time, the directive aimed to avoid unnecessary displacement of children through the country, and was based on having accredited non-governmental organizations ready to meet the children and proceed with the disarmament, demobilization and reintegration process on site. In practice, very few child protection agencies had the logistical capacity to guarantee a proper response for such cases given the size of the country and the number of areas difficult to access. A number of children left behind were therefore unable to join the reintegration process.

50. The main challenges faced by the programme currently include the following:

(a) Children remain a high proportion of non-aligned armed groups who have yet to participate in the disarmament, demobilization and reintegration programme.

(b) Many children left or escaped from armed groups without the support of the official disarmament, demobilization and reintegration programme. Many of those children remain at risk and programmes are needed to include them in community reintegration.

(c) There is inadequate experience in addressing the specific challenges faced by girls, both in securing their release from armed groups and forces and in the process of community reintegration. Many of the girls who were abducted or voluntarily enrolled have now become the "wives" of combatants; commanders are unaware of their obligation to release them, and the girls are unaware of their rights, and fear ostracism upon return to their communities.

(d) The high-profile arrests of several commanders guilty of recruiting children under 15 years of age may have had the unintended effect of slowing the pace of release of children to child protection agencies: commanders now fear arrest if children are found in their ranks.

(e) Social and economic reintegration activities in favour of children formerly associated with armed groups and forces have been slow to get off the ground, limited in relation to the vast size of the country, and hampered by the scarcity of socio-economic opportunities for children in general. While the national Commission reports that more than 15,000 children have benefited from socio-economic reintegration activities as at 30 April 2006, there is fear that these

activities will be unsustainable without access to longer-term, more streamlined funding mechanisms.

(f) Coordination with the adult disarmament, demobilization and reintegration programme has been difficult. As child reintegration is undertaken through ensuring access to services and education and other reintegration assistance in kind, and not with monetary payments as in the adult programme, many children are presenting themselves as adults in order to receive the direct monetary benefits of the adult demobilization process, and some of them have re-enrolled in the army to this end.

Sexual violence

51. More than 30,000 survivors of sexual violence have been identified in the Democratic Republic of the Congo since mid-2005, and 70 per cent of them have benefited from some form of assistance as outlined below. The main elements of response are:

- Prevention of sexual violence through advocacy and sensitization campaigns.
- Training of workers in the medical, psychosocial and legal assistance fields.
- Identification of survivors through community-based networks.
- Medical, psychosocial and legal assistance to survivors.

52. Some 10 international non-governmental organizations and 100 national non-governmental organizations collaborate in the implementation of the above-mentioned activities under the UNFPA joint initiative programme. Since the beginning of the initiative to assist sexual violence survivors in the Kivus (2003), 27,460 survivors have benefited from psychosocial assistance, 17,089 have benefited from medical reference, 6,134 have benefited from economic reintegration activities, and 34 have benefited from legal assistance, of which 14 cases were prosecuted and closed.

53. The initiative has been successful in raising the profile of sexual violence among national priorities. Progress is hindered by a number of constraints, however, including:

- The immense size of the country makes it difficult to reach victims.
- Despite a few high-profile cases where perpetrators have been arrested and tried, the vast majority of cases of rape go unpunished.
- The huge scale of sexual violence committed by men in uniform is matched by an equally large problem of sexual violence in "normal" settings, such as within the household and in schools.
- Child victims of sexual violence have proved harder to reach than adults.

Attacks on schools and hospitals

54. A rapid response mechanism managed by UNICEF and the Office for the Coordination of Humanitarian Affairs has been in place in five provinces of the Democratic Republic of the Congo (eastern provinces and Katanga) since October 2004. The mechanism aims to provide immediate assistance to schools that have been attacked. Assistance includes light rehabilitation and provision of school

materials in order to support continued schooling. Since October 2004, 75 classrooms have been repaired, and over 12,000 displaced schoolchildren have benefited from emergency education support. Around half of the pupils were provided with temporary learning spaces.

VI. Recommendations

55. I strongly urge all stakeholders to take all necessary actions for a complete and unconditional release of all children, boys and girls, still present in the armed forces of the Democratic Republic of the Congo and armed groups operating in the territory of the Democratic Republic of the Congo, with particular attention to dissident General Laurent Nkunda, who has totally disregarded previous decisions of the Security Council. Mai-Mai groups loyal to commander Gédéon, MRC and FARDC units, who have also yet to come into full compliance, should be encouraged to do so without delay. In addition to the demobilization of children associated with armed forces and groups, a complete withdrawal process should include measures such as primary health care and psychosocial support to address the special needs of children previously associated with armed groups, with special regard for girls who have become "war wives" and mothers.

56. I reaffirm the complementary nature of the jurisdiction in the Democratic Republic of the Congo of the International Criminal Court, and the primary responsibility of the Government of the Democratic Republic of the Congo to bring perpetrators of serious crimes against children to justice. This has already resulted in landmark rulings addressing impunity for recruitment and use of children and sexual violence against children. More resources, human and financial, should, however, be made available for strengthening the capacity of the armed forces' *Auditeurs militaires* to investigate and prosecute crimes against children.

57. I encourage the Government of the Democratic Republic of the Congo, with particular emphasis on the military, police and election-related authorities, to train and instruct security officers to prevent any excessive or illegal use of force that may result in arbitrary killings or other serious violations against children. I also encourage the Government and international donors to include child protection within security sector reform efforts, recognizing the link between juvenile justice, police and military authorities to address the safety and security of children.

58. Adequate protection of witnesses and victims of crimes, including children, and appropriate technical and other support to the judiciary and security authorities concerned to fulfil this responsibility are also essential.

59. I further encourage the development of a national truth and reconciliation initiative for the Democratic Republic of the Congo, which would facilitate the reconstruction of Congolese society and the reintegration of children previously associated with armed groups, both boys and girls, into their families and communities.

60. I also call on the Government of the Democratic Republic of the Congo and armed groups to fully respect applicable international law concerning the protection of schools. Attacks on schools and the occupation of school premises, with special attention to affected schools in Katanga Province, must cease without delay.

61. I also urge donors to secure long-term commitment and promote a more systematic approach when engaging with child protection programmes, helping to bridge social and legal protection initiatives. Finally I stress the need for the international community to provide immediate assistance to aid the Government of the Democratic Republic of the Congo in the implementation of free primary education as expressly guaranteed in the Constitution, including the elimination of school fees for primary education, and to provide life skills and vocational education for out-of-school students as a priority.

62. My Special Representative for Children and Armed Conflict will undertake a mission to the Democratic Republic of the Congo in the near future to help to bring attention to and highlight the need to mainstream child protection into the transition and post-transition priorities of the Government of the Democratic Republic of the Congo and its United Nations and civil society partners.